

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CLEMENS A. KOOT,

Plaintiff

v.

BWDAC, INC., et al.,

Defendants

Case No.: 2:24-cv-00190-APG-EJY

**Order Granting Motion to Remand**

[ECF No. 20]

Plaintiff Clemens Koot filed this lawsuit in Nevada state court against a number of entities, alleging that they caused or contributed to his contracting mesothelioma. Defendant Caterpillar removed the case to this court based on diversity jurisdiction. Koot now moves to remand, alleging that complete diversity is lacking because he is a Nevada citizen and defendant Meritor, Inc. is incorporated in Nevada. ECF No. 20. Caterpillar responds that, while Meritor is incorporated in Nevada, it is only a name holder for its identically named parent company, which is incorporated in Indiana and has its principal place of business in Michigan. ECF No. 31 at 3-4. Caterpillar argues that, because the Nevada entity is “simply a shell and a holding company,” its citizenship must be determined by its parent. *Id.* at 7.

Caterpillar relies upon cases that address where the principal place of business should be for a holding company. *Id.* at 5-6 (citing to *Johnson v. SmithKline Beecham Corp.*, 724 F.3d 337 (3rd Cir. 2013) and *3123 SMB LLC v. Horn*, 880 F.3d 461 (9th Cir. 2018)). But 28 U.S.C. § 1332(c)(1) states that “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business . . . .” Caterpillar ignores the first possible location of citizenship: the “state by which it has been incorporated.” Meritor is incorporated in Nevada, so it is a citizen of Nevada.

1 Caterpillar offers no cases saying I can ignore the state of incorporation and focus only on the  
2 principal place of business. Even if, as Caterpillar contends, Meritor exists only as a name  
3 holder for its parent, that does not negate the express language of § 1331(c)(1).

4 Koot is the master of his complaint and he has chosen to sue Meritor, the Nevada entity.  
5 See ECF 1-4 at 6; 49 at 2 (“Plaintiff Clemens Koot, a Nevada citizen, filed a lawsuit and served  
6 the company that is incorporated in Nevada.”). If that Nevada company is ultimately found not  
7 liable to Koot because it did nothing to him, then Koot will have chosen the wrong defendant.  
8 But that is his choice and an issue for a different day. At present, both Koot and one of the  
9 defendants he sued (Meritor) are Nevada citizens, so complete diversity is lacking. I therefore  
10 must remand this case to state court for lack of jurisdiction.

11 I THEREFORE ORDER that Koot’s motion to remand **(ECF No. 20) is granted**. This  
12 case is remanded to the state court from which it was removed. The clerk of the court is directed  
13 to close this file.

14 DATED this 18th day of March, 2024.

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18 ANDREW P. GORDON  
19 UNITED STATES DISTRICT JUDGE  
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